

**SECRETARY, BOARD OF
OIL, GAS & MINING**

FILE NO. S/013/008

1. This action is brought by the Division pursuant to the Utah Mined Land Reclamation Act, Utah Code Ann. §§ 40-8-1 *et seq.* (2005).
2. Jurisdiction over this matter is conferred upon the Board by Utah Code Ann. § 40-8-6 (2005).
3. Recovery of civil penalties is pursuant to Utah Code Ann. § 40-8-9.1 (4) (2005).

NOTICE REQUIREMENTS

4. Pursuant to Utah Code Ann. §§ 63-46b-6 to 63-46b-11 (2005), the hearing will be conducted formally.
5. The hearing will be held on July 27, 2005 at 10:00 a.m., or as soon thereafter as possible, in the Board Room of the Department of Natural Resources, 1594 West North Temple, Suite 1050, Salt Lake City, Utah.
6. A written response must be filed with the Board within 20 days of the date of mailing of this Notice of Agency Action. Any party who fails to respond, or to appear at said hearing, may be held in default.
7. The names and addresses of all persons to whom the Notice of Agency Action shall be given are attached as the Certificate of Service and by this reference incorporated herein.

STATEMENT OF FACTS

8. Rock-It Stone Works is the operator of record of the Strawberry River Quarry located in portions of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, Range 7 West, Township 4 South, SLBM, Duchesne County, Utah.
9. On September 10, 2004, the Division issued to Rock-It Stone Works Cessation Order MC-2004-03-01-0. Both parts of this cessation order were later abated and terminated. Penalty assessments associated with this cessation order, totaling \$3960.00, were mailed to Mr. Shannon Peatross, Rock-It Stone Works, by certified mail on October 8, 2004. This letter was returned by the Postal Service as unclaimed after its last delivery attempt on October 24, 2004.

10. On November 16, 2004, the Division faxed the penalty assessments to Mr. Peatross and re-sent them via first class mail. The Division staff also telephoned and informed Mr. Peatross that payment of the assessments was due by November 23, 2004, thirty days from the last delivery attempt by the Postal Service. Division staff notified Mr. Peatross that, in the alternative, he could appeal the penalty assessments by the same date, November 23, 2004, in accordance with Utah Administrative Code R647-7-105 and R647-7-106.
11. Mr. Peatross and Rock-It Stone Works did not make payment of the assessments nor appeal the fact of the cessation order. The deadline for appealing either the assessments or the fact of the cessation orders has long since expired.
12. On May 24, 2005, counsel for the Division sent, via certified mail, first class mail and fax, a letter to Mr. Peatross notifying him that payment of the aforementioned penalty assessments was due. The letter also informed Mr. Peatross that the Division would file this Notice of Agency Action if Rock-It Stone Works did not pay the assessments it owed.
13. As of the date of this Notice of Agency Action, the Division has not received payment from, nor had any contact with Rock-It Stone Works or its employees.

PRAYER FOR RELIEF

WHEREFORE, the Division requests that the Board enter an Order requesting the attorney general of Utah to bring an action in any appropriate district court of the state to recover civil penalties owed by Rock-It Stone Works.

DATED this 10th day of June, 2005.



Mary Ann Wright, Associate Director
On behalf of John R. Baza, Director
Division of Oil, Gas and Mining
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CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing Notice of Agency Action to be mailed, postage pre-paid, on the 10th day of June, 2005, to the following:

CERTIFIED MAIL

7099 3400 0016 8894 0565

Mr. Shannon Peatross

Rock-It Stone Works

924 West Hicken Court

P.O. Box 538

Heber City, Utah 84032-0538

(also by first class mail)

Michael S. Johnson

Assistant Attorney General

Utah Board of Oil, Gas & Mining

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(Hand Delivered)

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